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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/677,936	10/02/2003	Donald L. Walz	7570CIP	9728

31253 7590 03/21/2005

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EXAMINER

NGUYEN, TAN D

ART UNIT	PAPER NUMBER
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3629

DATE MAILED: 03/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/677,936

Applicant(s)

WALZ, DONALD L.

Examiner

Tan Dean D. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 10/02/2003.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement (IDS) submitted on 10/02/2003 was filed after the mailing date of the application on 10/02/2003. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. **Claims 1-6 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.**

In order for the claimed invention to be statutory subject matter, the claimed invention must fall within one of the statutory classes of invention as set forth in § 101 (i.e. a process, machine, manufacture, or composition of matter).

In the present case, claims 1-6 are directed to "A charitable organization funding a member benefit program", which is not within one of the classes of invention set forth in § 101.

The "A charitable organization funding a member benefit program" comprising:

- (a) a charitable organization ...,
- (b) members of the organization ...,
- (c) a plan

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(d) a computer for maintaining a record ... at said member's death.", as shown are merely an abstract idea and do not produce a useful, tangible, concrete results.

The "method of obtaining knowledge about an enterprises data" comprising elements (a)-(d) as shown are:

1) merely an abstract idea and

2) does not reduce to a practical application in the technological arts (integration with computer/ computer network in all steps/elements of the claim to produce an output result) and are therefore are found to be non-statutory.

See *In re Alappat*, 33 F.3d at 1544, 31 USPQ2d at 1557, or *In re Waldbaum*, 173 USPQ 430 (CCPA 1972) or *In re Musgrave*, 167 USPQ 280 (CCPA 1970) and *In re Johnston*, 183 USPQ 172.

Claim Rejections - 35 USC § 112

4. Claims 1-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 1, the phrase "program comprising," is vague and indefinite. The ",", should be replaced with ":".

In claim 2, it fails to include a "." at the end of the paragraph.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. **Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over (1) Applicant Admitted Prior Art (or AAPA) in view of (2) LACOUR, Article 1998 "Relief Agencies ..." and (3) KITTUR et al, Article 1991 "Incentives for Organ Donation?"**

AAPA discloses (a) a well known charitable organization such as American Red Cross comprising: a charitable organization that is qualified to receive tax deductive donations and distributes human blood and blood products (regenerative organ/tissue) throughout the world, (b) members of the charitable organization, (c) a plan administered by the organization whereby, for the member regularly paying dues and donating blood the charitable organization to receive tax deduction, and (d) means for maintaining a record of individual member's contribution of money and blood to the charitable organization during the member's life (see pages 2-3). AAPA teaches the claimed invention except for:

(a) the organization to receive donations of goods, and services,

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(c) a plan that the organization will provide and fully pay for, through a funeral plan that is funded from a minimum to maximum value as determined by the member's actual donations upon the member's death, and

(d) a computer for carrying (d) above.

LACOUR is merely cited to teach other well known functions of the American Red Cross and that it's a charitable organization that is qualified to receive tax deductible donations of money, goods (jugs of water, forklifts, anything), services (volunteers and people) and distributes money and goods to needy people (see abstract). LACOUR also teaches the use of computers for well known functions such as automation and inventory control (database). It would have been obvious to modify the teaching of AAPA to include other well known functions of the organization, American Red Cross, such as receiving money, goods, services and the use of computer for automation functions and other basic functions such as inventory control. Therefore, the teachings of AAPA and LACOUR fairly teaches the claimed invention except for: (c) a plan that the organization will provide and fully pay for, through a funeral plan that is funded from a minimum to maximum value as determined by the member's actual donations upon the member's death.

KITTUR et al, as shown in Article 1991, discloses that compensation for donation of (regenerative organs/tissues) blood, blood products, spermatozoa or organs would encourage more people to become donors due to the financial benefits (page 3, 4th paragraph). Article 1991, also indicated on the same page at 6th paragraph, that some of the more popular potential financial donor compensations can include assistance in

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the payment of funeral expenses (funeral plans). It would have been obvious to modify the teaching of AAPA / LACOUR to include more popular compensation for donation of human regenerative organ such as assistance in practical expenses such as funeral expenses as taught by KITTUR et al above to encourage more people to give or donate due to financial benefits. As for the limitation of the compensation varies with the member's donation, this is well known donation/compensation concept and is inherently included in the teaching of AAPA/LACOUR or would have been obvious to a person of ordinary skill because the compensation has to be proportional to the donation level to be fair for the donor and donee. For example, a minimum/low donation would result in a minimum/low compensation and vice versa for a high/maximum donation with some of the cost goes into cover administration cost.

As for dep. claim 2 (part of 1), which deals with other type of well known body donating parameters, usable organs, this is non-essential to the scope of the claimed invention since it's immaterial modification and is fairly taught in KITTUR et al pages 2-3.

As for dep. claim 3 (part of 1), this is well known donor recording parameters since social security number is one of the main identifier and verification for our society currently and other personal information such as blood type, DNA information, etc. to further improve the verification process are well known and would have been obvious to a skilled artisan.

As for claims 4-6 (part of 1), which deals with other type of well known donor benefits parameters, these are non-essential to the scope of the claimed invention since

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they are immaterial modification and are fairly taught on page 3 of KITTUR et al. Note also that the various adjustments of the compensation plan or other plan for reducing personal costs with respect to funeral planning, estate planning, etc., would have been obvious to a skilled artisan.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

1. US Patent/PG PUB:

(1) US 2002/0049816 by Costin IV, et al. is cited to teach well known automation steps using computer or computer network or global computer network (Internet) for an artisan to help out a charity organization in reaching donors, keeping track of record, tracking and calculating of results, communicating with donors through interactive participation such as e-mail. This is cited here for applicant's awareness but it could be used in the near future for limitations dealing with well known benefits of computer and global computer network (Internet).

2. NPL:

(1) Article "FEMA" is cited to teach other well known functions of American Red Cross as cited in LACOUR.

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9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through private PAIR only. For more information about the PAIR system, see <http://pair-direct@uspto.gov>. Should you have any questions on access to the private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).

In receiving an Office Action, it becomes apparent that certain documents are missing, e. g. copies of references, Forms PTO 1449, PTO-892, etc., requests for copies should be directed to Tech Center 3600 Customer Service at (703) 306-5771, or e-mail CustomerService3600@uspto.gov.

Any inquiry concerning the merits of the examination of the application should be directed to Dean Tan Nguyen at telephone number (703) 308-2053 or (571) 272-6806 (by April 15, 2005). My work schedule is normally Monday through Friday from 7:00 am - 4:00 pm. I am scheduled to be off every other Friday.

Should I be unavailable during my normal working hours, my supervisor John Weiss may be reached at (703) 308-2702. The FAX phone numbers for formal communications concerning this application are (703) 872-9306. My personal Fax is (703) 872-9674. Informal communications may be made, following a telephone call to the examiner, by an informal FAX number to be given.

dtn

 3/14/05
DEAN T. NGUYEN
PRIMARY EXAMINER